

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6935

BILL NUMBER: HB 1398

NOTE PREPARED: Feb 19, 2009

BILL AMENDED: Feb 17, 2009

SUBJECT: Ethanol Incentives.

FIRST AUTHOR: Rep. Grubb

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill reduces the credit sale of E85 biofuel that a retailer may apply against the amount of Gross Retail Tax that the retailer must deposit with the Department of State Revenue from \$0.18 to \$0.12 per gallon. It provides that the credit applies only to reporting periods beginning on January 1 and ending before April 1. It specifies procedures for administering the credit. It transfers administration of the credit from the Department of Revenue to the State Budget Agency.

The bill allows the Blended Biodiesel Production Tax Credit to be carried forward 10 years instead of 6 years. It adds school corporations and state educational institutions to the list of governmental entities that are eligible to apply to the Department of Agriculture for a grant under the E85 Fueling Station Grant Program. The bill also requires state educational institutions to purchase ethanol blended fuel and blended biodiesel fuel to the extent possible.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: (Revised) *Department of State Revenue(DOR):* This bill could result in some cost savings to the DOR. The bill transfers administration of E85 sales tax credit from the DOR to the State Budget Agency.

State Budget Agency (SBA): This bill would increase administrative expenditures for the SBA. The bill provides that the SBA must administer the E85 sales tax credit. The bill outlines the procedures for administering the credit. Any increase in expenditures would be covered under the existing resources.

State Educational Institutions: The bill provides that state educational institutions shall, whenever possible, use purchase ethanol blended fuel and blended biodiesel to fuel vehicles owned or operated by the state

educational institutions. Any impact on expenditures is indeterminable.

Indiana State Department of Agriculture (ISDA) and the Indiana Office of Energy and Defense Development (OED): This bill includes school corporations and state educational institutions in the definition of units eligible to receive grants under the E85 Fueling Station Grant Program. The ISDA and the OED may experience increased administrative costs due to this change, such as revision of grant guidelines and computer programs. There may also be an increased number of applicants due to the expansion of eligibility. The current level of resources for the ISDA and the OED should be sufficient to implement this change.

Background Information - E85 Fueling Station Grant Program: The ISDA and the OED administer the program, which is funded through the corn checkoff (an assessment of one-half cent per bushel of corn collected by the first purchaser). The grant program has a cap of \$1 M. Grants awarded in 2008 are listed below.

Biofuels Grant Program	County	Award Date	Award Amount
Lassus Brothers Oil, Inc.	Huntington	3/4/2008	\$5,000
Crystal Flash Petroleum, LLC	Hamilton	5/8/2008	\$5,000
Thorntons, Inc.	Johnson	8/18/2008	\$20,000
National Oil & Gas	Allen	8/18/2008	\$18,000
Family Express Corp.	Porter	8/18/2008	\$20,000
Ethy Pump-n-Go	Jay	8/28/2008	\$20,000
Family Express Corp.	LaPorte	9/13/2008	\$20,000
Crystal Flash Petroleum, LLC	Marion	9/13/2008	\$7,850
Thorntons, Inc.	Clark	9/17/2008	\$20,000

Explanation of State Revenues: (Revised) *Blended Biodiesel Production Tax Credit:* This bill allows the Blended Biodiesel Production Tax Credit to be carried forward for 10 years. Current statute allows the credit to be carried forward for 6 years. Two companies received certification for credits from the Indiana Economic Development Corporation (IEDC) in FY 2006 and FY 2007. One company received certification for \$3 M in credits during FY 2006, and one company received certification for \$1 M in credits during FY 2007. This bill would allow these companies to potentially claim Blended Biodiesel Production Tax Credits against their tax liabilities until tax years 2015 and 2016 if the credit amounts exceed their liabilities, and until all credits are claimed. Data was not available for the amount of credits claimed for tax years 2005 to 2007.

Taxpayers that produce blended biodiesel (B2 or greater, excluding B100) at a facility in Indiana are eligible for a tax credit that equals \$.02 multiplied by the number of gallons of blended biodiesel produced. The total amount of credits allowed may not exceed \$3 M for a taxpayer for all taxable years. The total credits available for biodiesel, blended biodiesel and grain ethanol production may not exceed \$50 M for all taxpayers each year. The \$50 M cap was reached in FY 2007, and so no new tax credits have been certified since then for biodiesel, blended biodiesel and grain ethanol production.

The Blended Biodiesel Production Tax Credit may be taken against the individual and corporate Adjusted

Gross Income (AGI) Tax, the Financial Institutions Tax (FIT), and the Insurance Premiums Tax (IPT) and may not be carried back or refunded. Revenue from the individual and corporate AGI Tax, the FIT and the IPT is distributed in the state General Fund.

(Revised) *E85 Sales Tax Deduction*: The bill reduces the E85 sales tax deduction to from \$0.18 per gallon to \$0.12 per gallon. The bill should have no impact on future Sales Tax revenue assuming all the Sales Tax deductions are reimbursed by the fund. The bill establishes the Retail Merchant E85 Deduction Reimbursement Fund to reimburse the state for the deductions. The fund consists of money transferred from the Corn Market Development Account. (However, there is currently no statutory provision which allows this transfer. Currently SBA has an informal arrangement with the Corn Market Council to provide reimbursement for this deduction.) The bill requires that on July 1 of each year, the SBA must transfer \$500,000 from the Corn Market Development Account to the Retail Merchant E85 Deduction Reimbursement Fund. The bill provides that the Sales Tax credit applies to periods beginning on January 1 and ending before April 1.

The bill also provides that the total amount of deductions claimed in a reporting period may not exceed the amount of money the SBA determines is available in the Retail Merchant E85 Deduction Reimbursement Fund. The bill provides that before August 1 each year, the SBA must determine whether the deductions to be claimed for the next reporting period would exceed the amount in the Retail Merchant E85 Deduction Reimbursement Fund. The SBA is required to publish a notice stating that the deduction is suspended for that reporting period if the deductions to be claimed for the next reporting period would exceed the amount of money in the fund.

The bill requires that before May 1 each year, the State Budget Agency must determine the sum of all retail merchant deductions allowed in the immediately preceding qualifying period and deposit that amount in the same manner sales tax revenue is deposited; state General Fund (99.178%), the Public Mass Transportation Fund (0.67%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

(Revised) *Background Information on E85 Sales Tax Deduction* - Under current statute, the total E85 sales tax deduction is limited to \$1M in all reporting periods. However, the current statute also provides that, notwithstanding the limit, a retail merchant is entitled to the deduction only to the extent that funds are available to reimburse the General Fund from the Corn Market Development Account. According to DOR's notice in the Indiana Registry, the limits for FY 2008 and FY 2009 have been reached. Approximately \$1.47 M was claimed in FY 2008, and the state was reimbursed \$750,000. The remaining balance is to be reimbursed to the General Fund over the next four fiscal years. The maximum of \$500,000 of deductions were claimed by October 2008 for FY 2009.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOR; ISDA; OED; Corn Marketing Council; SBA.

Local Agencies Affected:

Information Sources: Elisha Modisett, ISDA, 317-517-7526; Bob Lain, DOR, 317-232-3471, DOR Department Notice 28,29,30; IEDC.

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